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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 November 1998, at 10 a.m.

Chairperson: Mr. CEAUSU

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Switzerland

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Switzerland (E/1990/5/Add.33; HRI/CORE/1/Add.29; E/C.12/Q/SWI/1; document with no symbol containing written replies by Switzerland to questions raised in the list of issues and Corrigendum)

1. At the invitation of the Chairperson, the members of the delegation of Switzerland took places at the Committee table.

2. The CHAIRPERSON welcomed the delegation of Switzerland and expressed the hope that its dialogue with the Committee would be a constructive one. In accordance with the Committee's usual practice, the delegation was invited to make an introductory statement, after which the Committee would ask questions about the report on the basis of the list of issues.

3. Mr. ELMIGER (Switzerland) said that the Swiss Government attached great importance to the promotion and protection of human rights, democracy and the rule of law - one of the five priorities of its foreign policy. An effort had been made in the initial report (E/1990/5/Add.33) to describe both Switzerland's achievements in the sphere of economic, social and cultural rights and its shortcomings in that regard. The report had been drafted with a mind to transparency and had been the subject of broad consultations among all interested parties in civil society. Every effort had been made to distribute it as widely as possible, and the assistance of the Office of the High Commissioner for Human Rights, which had made it available on Internet, was much appreciated. In an effort to involve civil society as closely as possible in the implementation of the rights enshrined in the Covenant, Switzerland had provided financial support for a report to the Committee by a number of non-governmental organizations (NGOs).

4. In his introductory statement he would focus on significant developments in the field of economic, social and cultural rights since the preparation and submission of the initial report. An important development in the country's political life was the instruction recently given by Parliament to the Federal Council to prepare draft legislation with a view to Switzerland's joining the United Nations.

5. In Switzerland, human rights were guaranteed in three ways: at the domestic level, by the federal and cantonal constitutions and jurisprudence; at the European level, through the European Convention on Human Rights and its additional protocols; and at the universal level through its obligations under United Nations human rights treaties. Those three kinds of guarantees complemented and reinforced each other.

6. Since 1995, Switzerland had undertaken new obligations under other human rights instruments which had a bearing on economic, social and cultural rights, including the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the European

Charter on Regional or Minority Languages and the framework Convention of the Council of Europe for the protection of national minorities. Moreover, the Federal Council had recently proposed that Parliament should ratify the International Labour Organization (ILO) Right to Organize and Collective Bargaining Convention (No. 98) and Minimum Age Convention (No. 138).

7. The new Labour law, which would probably be adopted by a referendum on 29 November 1998, was designed to ensure equality between the sexes with regard to working hours and rest time. It would afford greater protection to people on night and weekend duty, with special provisions for women who were on maternity leave or breastfeeding, and would allow for flexible working hours. The new law had the support of major employers' and workers' associations as well as the main political parties in Switzerland.

8. Under bilateral negotiations with the European Union, the Federal Council was preparing measures with a view to preventing social dumping due to the arrival in Switzerland of foreign workers ready to accept employment conditions less favourable than those currently prevailing.

9. As part of the current reform of the Federal Constitution, Parliament had decided to recognize expressly in the new draft the lawfulness of strikes and lockouts under certain conditions in particular provided that the industrial peace was kept and recourse had to arbitration. The reform of the Federal Constitution would be decided by referendum in 1999.

10. With regard to social security, a new law on health insurance had been enacted in January 1996 to replace the previous one, which dated from 1911. The new law made it compulsory for the entire population to have insurance for medical care and drugs. Insurance was on an individual basis and there was no limit as to the duration of either in-patient or ambulatory care.

11. A further important change was the entry into force on 1 January 1997 of the tenth revision of Switzerland's old-age pension system, the AVS (Assurance-Vieillesse et Survivants). Under the new law, payments to couples were replaced by payments to individual pensioners. Furthermore, the basis for calculating pensions had been changed by dividing the total income between partners and giving bonuses for periods of time when the beneficiaries, usually women, stayed at home to bring up or care for members of the family. That marked the end of the distinction drawn between remunerated and non-remunerated work and thus favoured women and those on low incomes. Men were now eligible for a pension upon the death of their spouse and foreigners had the same pension rights as nationals. The retirement age for women would be raised from 62 to 64 in two stages by the year 2005.

12. In 1997 a bill had been submitted to Parliament to harmonize maternity benefits throughout the country. The bill provided for a maternity allowance of 80 per cent of lost earnings for working mothers for a leave period of 14 weeks and an income-based allowance for all mothers in gainful employment or otherwise. Although the principle of a maternity allowance had been accepted by the two chambers of Parliament, some differences of opinion remained as to how it should be financed.

13. The 1995 revision of the Unemployment Insurance law had been implemented by stages, its main objective being the re-entry of people into the employment market through work provision, training and placement schemes. Thousands of training courses and temporary employment schemes had been launched. Meanwhile, the establishment of regional placement offices where job-seekers were provided with personalized career guidance had, according to a recently published survey, given overall satisfaction.

14. In October 1995 the Federal Tribunal had acknowledged the existence of an unwritten constitutional and legal right to basic means of subsistence, as an essential component of democracy and the rule of law. That right was applicable alike to Swiss nationals and to foreigners, irrespective of their status with the aliens' police. That new jurisprudence was reflected in article 10 of the draft Federal Constitution, which provided for the "right to assistance in situations of distress".

15. The health status of Switzerland's population could be called good. Life expectancy at birth was 82 years for women and 75 for men, and a further slight improvement was likely in the coming decades. That trend was due to the reduction of neonatal and infant mortality and maternal deaths, the almost complete control - until the advent of AIDS - of infectious diseases, the recent fall in mortality from cardiovascular diseases and injuries, and measures to prevent premature deaths due largely to lifestyles. Major preventive campaigns had been launched to combat AIDS and since 1996 the numbers of new infections and of AIDS sufferers had been on the wane, owing respectively to preventive measures and to new therapies that retarded the onset of the disease.

16. For heavily dependent drug users, Switzerland was continuing with its programme of supplying heroin and methadone on prescription, with encouraging results for health, social stability and crime rates in the country. An emergency Federal order had recently entered into force lifting restrictions on the number of participants in programmes for the controlled distribution of heroin.

17. Legislation governing alcohol was being reviewed, with the aim of deregulating the sale of spirits. That would reduce their price, so to step up the combat against alcoholism an information campaign on how to drink without damaging one's health was also being prepared. In July 1998 a new committee set up by the Federal Council had held its first meeting with the aim of drawing up a new strategy to combat tobacco dependency.

18. As for the environment, pursuant to the decisions taken at the Earth Summit (Rio de Janeiro, 1992), a plan of action on the environment and health had been prepared.

19. A large number of reforms were currently under way in the field of education throughout the Swiss Cantons. Their general thrust was, he thought, altogether in keeping with the requirements and spirit of the Covenant, aiming as they did at improving the overall quality of education, strengthening democratic participation and control, respecting local and regional needs, and improving student success rates. In higher education, facilities had been expanded by the creation of seven specialist schools which, alongside the

universities, would provide training in some 20 disciplines. The diploma received upon completion of three or four years' study would be recognized throughout Switzerland and in countries of the European Union. The year 1996 had seen the inauguration of an Italian-language university which should help to reinforce the cultural identity of that minority group in Switzerland.

20. In May 1997 a foundation had been set up to deal with the problems faced by Swiss travelling people. It would serve first and foremost as a forum in which representatives of the travelling people, the communes, the Cantons and the Confederation could jointly seek solutions to current difficulties, such as the provision of schooling for the children.

Articles 1 to 5

21. Mr. RIEDEL said it was essential for the dialogue with the Committee to be conducted in a spirit of cooperation. The delegation should not be taken aback by the directness of some members' questions, since their views on certain issues might differ considerably from those of the Swiss Government. Did Switzerland intend to ratify the Council of Europe's framework Convention for the protection of national minorities, and why had the matter been pending before Parliament for more than a year? Likewise, would Switzerland ratify ILO Convention No. 169 on Indigenous and Tribal Peoples? Swiss support for the Convention at European level would be most welcome.

22. Many western European countries failed to recognize the indivisibility of human rights. What were Switzerland's views on the matter? Given the forthcoming fiftieth arniversary of the Universal Declaration of Human Rights, would Switzerland consider following the recommendations of the Committee set out in its general comment No. 3 concerning the direct applicability of the core contents of the Covenant in courts of law and administrative tribunals? What was Switzerland's position vis-à-vis an Optional Protocol to the Covenant? Was it in favour of the establishment of a working group?

23. He was concerned at a manifest downgrading of the social rights to which Switzerland had undertaken international commitments into mere goals and statements of intent. He was also concerned about the implications of Federalism for those rights. Perhaps a solution might be found in subsidiarity.

24. Had the Covenant ever been invoked in Swiss courts as was allowed under the Federal Constitution? Perhaps greater efforts were required to publicize it among competent public officials. Lastly, were development projects sponsored by Switzerland regularly monitored from the viewpoint of their effects on the social rights of beneficiaries?

25. Mr. SADI observed that the size and composition of the Swiss delegation testified to the seriousness with which it approached the dialogue. However, he was somewhat puzzled as to why it had taken Switzerland until 1992 to ratify the Covenant. Regrettably, Switzerland had a tradition of placing civil and political rights on a higher plane than economic, social and

cultural rights. He welcomed the declaration of the Federal Tribunal concerning the constitutional right to means of subsistence; was there any prospect that the Tribunal might take a more activist stance in other areas too?

26. He also noted that, in contrast to the situation under other federal systems, the Government of the Confederation appeared to pass on responsibilities to the cantons and communes, with the consequence that if they failed to act nothing was done and no one could be held accountable.

27. Mr. TEXIER said it was a pleasure to welcome the delegation of a country that had itself played host to the Committee twice a year for the past twelve years. He asked what economic, social and cultural rights were enjoyed by asylum seekers who had not yet been accorded refugee status, and also by those to whom that status had been accorded. On international cooperation, referred to in articles 2 (1) and 23 of the Covenant, he asked what proportion of the Confederation's budget was allocated to such cooperation, and for what forms of assistance it was earmarked.

28. Mr. AHMED commended the Swiss delegation on the thoroughness of the report and written replies submitted. Paragraph 28 of the report acknowledged that aliens were one group that experienced discrimination. However, the consolidated report submitted by a number of Swiss NGOs named four other groups disadvantaged in that regard, namely: persons with disabilities; the elderly; travelling people, and especially the Jenish people; and women. He asked for further information on the situation of those groups.

29. Mr. KOUZNETSOV, after commending the Swiss delegation on the impressive range of technical expertise its members commanded, noted that Switzerland appeared to have signed, but not to have ratified, the European Social Charter. He asked what obstacles stood in the way of ratification of that instrument.

30. Mr. THAPALIA noted that, according to the written replies to the list of issues, foreigners residing legally in Switzerland enjoyed the same rights as did Swiss workers. Asian and African migrants took a different view of the situation, alleging that they were regularly harassed by the police. No directly applicable legislation had been enacted by the Confederation in that regard. Could the delegation cite any case in which a court had upheld the economic, social and cultural rights of a foreign worker?

31. Mr. MARCHÁN ROMERO said that article 2 of the Covenant called on every State party to promote the rights protected therein "to the maximum of its available resources". As one of the world's most highly developed economies, did Switzerland earmark a proportion of its general State budget specifically for the promotion of economic, social and cultural rights, or were funds allocated to various sectoral programmes under a number of budget headings?

32. Mr. ADEKUOYE congratulated the Swiss authorities on fielding what was probably the largest State party delegation ever to have come before the Committee. He noted from the written replies to the list of issues that assistance accorded to aliens in connection with home ownership and pensions

was based on the criterion of reciprocity. With how many countries did such reciprocal arrangements exist, and how many of those countries were located outside Europe?

33. Ms. BONOAN-DANDAN noted that paragraph 114 of the initial report (E/1990/5/Add.33) identified no fewer than five different categories of residence permit. How did the various types of permit affect aliens and their families? How was the criterion of a "sufficiently secure" sojourn and gainful activity, on the basis of which the spouse and children could join the holder of a one-year permit, defined? Were exceptions permitted on a case-by-case basis?

34. Ms. JIMÉNEZ BUTRAGUEÑO said that, according to information provided by NGOs, some of the "offices of equality between men and women" referred to in paragraph 55 of the report were understaffed. She asked for fuller information about the activities of those offices, and in particular what they did to ensure that women's careers were not damaged by the traditional assumption that they would take full responsibility for the running of the home.

35. Mr. ELMIGER (Switzerland) said that the size of the Swiss delegation and the level of its expertise were a reflection of the importance his country attached to the Covenant. On the question of the direct applicability or self-executing nature of the provisions of the Covenant in Switzerland's legal system, he said that, when proposing to Parliament the ratification of an international instrument, the Federal Council generally adopted a position as to the general applicability of its provisions. In each specific case, direct applicability was evaluated in the first instance by the bodies applying the law and, in the event of a dispute between them and the applicant (requérant), by the courts - in the last resort the Federal Court. In several cases the Federal Court had ruled on the direct applicability of provisions of the Covenant, including articles 13 (2) (c), 9 and 11. To date it had not recognized the direct applicability of any provision of the Covenant; however, it had several times noted that it did not rule out the possibility that some of its provisions, such as article 8 (1) (a), on the right to form and join trade unions, were directly applicable.

36. On the draft optional protocol, the Swiss authorities attached great importance to mechanisms for monitoring and promoting international human rights instruments. An individual right to submit communications was one such mechanism. Switzerland had been at the origin of the mechanisms for visiting prisons provided for in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and had recognized the possibility of submitting individual communications under the latter instrument. It had also expressed readiness to accede to the Optional Protocol to the International Covenant on Civil and Political Rights. It had followed with interest the work on the preparation of the draft protocol to the Covenant of direct concern to the present Committee. That protocol had never to his knowledge been the subject of negotiations between States; however, when, a working group was set up for

that purpose, Switzerland would play an active part in its proceedings. The draft text prepared by the Committee was currently being studied by the Swiss administration, and the Government would pronounce on it in due course.

37. As to why Switzerland had taken so long to ratify the European Social Charter and the two international covenants of 1966, the 1980s had been characterized by a desire on the part of the Government and Parliament to ratify the major United Nations conventions. Government policy since 1969 had been to ratify international social instruments once the Swiss legal system had been brought as closely as possible into line with their requirements. Switzerland's concern to analyse and scrutinize its domestic legislation in minute detail meant that it sometimes took longer than other countries to ratify an international instrument.

38. The European Social Charter had been signed in 1976, and the Federal Council had presented it to Parliament for ratification in 1983. Parliament had taken the matter up in 1984 and 1987, but had declined to endorse the Federal Council's view of the question and ratify the instrument. Since then a number of interventions, including an initiative emanating from a parliamentary group, had been tabled in Parliament, calling for the question to be reopened. That initiative was still pending in the National Council, and had fallen foul of a number of legal obstacles as well as profound differences of political opinion. Only the previous day a parliamentary committee had decided to extend the parliamentary initiative for a further two years. It was therefore to be hoped that a final decision on the matter would be forthcoming within that period.

39. Ms. KORNICKER UHLMANN (Switzerland) said that the Council of Europe's framework Convention for the protection of national minorities had been approved by the Swiss Parliament in September 1998 and ratified in October 1998 and would enter into force on 1 February 1999. ILO Convention No. 169, referred to by Mr. Riedel, specifically concerned States parties such as Ecuador, Mexico and Guatemala that had substantial populations of indigenous and tribal peoples on their territories. Switzerland's policy was to give priority to the ratification of international instruments of broader rather than of narrower scope. Nonetheless, a 1991 report to Parliament had supported the general objectives of ILO Convention No. 169. For that reason, and also as a demonstration of international solidarity, the Swiss administration was considering ratification of the instrument. Switzerland was also convinced of the need for adoption of the draft declaration on the rights of indigenous peoples, which it saw as an important political signal with respect to the rights of that vulnerable section of the world's population.

40. Finally, to date the federal courts had given six published and three unpublished decisions which invoked the provisions of the Covenant.

41. Ms. SCHULZ (Switzerland) said that the Federal Office for Equality Between Men and Women comprised a federal-level central office and 15 branch offices. The former could be abolished, or its functions restricted, only by a change in the law, but the latter were subject to operational or budgetary limitations at any time.

42. The activities of the Office were wide-ranging. It assisted in the drafting of laws, advised individuals and organizations, published research findings and information, and contributed to in-service training initiatives. With regard to in-service training, the scant resources of the Office were concentrated in the Swiss Conference of Delegates on Equality, which had undertaken a series of projects, including Switzerland's first campaign against domestic violence and a violence awareness campaign aimed at young women and girls under the auspices of the national campaign for vocational education. The main objective of the Office was to develop instruments for achieving equality in practice in the workplace. It had published a number of studies to that end, and was currently concerned with preventing the introduction of new discriminatory wage structures in certain areas. Its research effort was complemented by in-service training in personnel departments, the judiciary, trade unions and women's groups. Since 1996, federal funding had been available for setting up advisory services and promotional activities with regard to equal opportunity in the workplace. Although the scheme was greatly overextended, there was now a motion before parliament aimed at removing a large part of its funding. Finally, collaboration with NGOs was one of the most important areas of the Office's activities; unfortunately, the NGOs also suffered from a serious lack of resources.

43. Ms. IMESCH (Switzerland), replying to the question on social security, said that in general foreigners and Swiss nationals enjoyed the same welfare benefits. For technical reasons, Switzerland had signed some 30 bilateral agreements with workers' countries of origin in order to provide a reciprocal basis for the payment of their pensions and benefits. Those agreements covered approximately 90 per cent of persons who had been or were currently working in Switzerland. Historically, most of those came from Europe, but Switzerland was now also negotiating with Tunisia and a number of central and eastern European countries. Any request for a bilateral agreement made by a country was always scrupulously examined by the competent authorities.

44. Mr. ADEKUOYE, on the question of the acquisition and loss of Swiss nationality, said that new legislation in force since 1992 had effectively deprived women who married Swiss nationals of automatic citizenship, a right they had enjoyed since 1952. An NGO report made available to the Committee stated that the new legislation had even led to cases of exploitation and violence against women. He asked the delegation to comment on the implementation of the new legislation since 1992.

45. Mrs. BONOAN-DANDAN noted that in the report women's employment was described as "frequently marked by atypical or precarious working conditions". She asked the delegation to provide more details, and to describe the protective measures in force, particularly for the many women who worked part time.

46. Mr. RIEDEL asked whether the Government used its Official Gazette as a means of disseminating Switzerland's report to the Committee and the Committee's final observations.

47. Mr. ELMIGER (Switzerland) said that the Government would do its best to distribute the Committee's conclusions to all interested organizations. The

Committee was already aware of a case in which the Government had immediately circulated all governmental bodies in the Confederation when a problem had arisen in connection with implementation of the right to education under the Covenant. Every effort was made to ensure that the Committee's conclusions and comments were made available at all levels of government and to the social partners and NGOs.

48. Mr. GRISSA said the report stated that 54 per cent of women aged over 15 engaged in gainful activity for at least one hour per week. Did that really constitute gainful employment? The report also said that 60 per cent of men and women between the ages of 14 and 24 were involved in gainful activity. What was the minimum wage in Switzerland, and at what age did compulsory education cease?

49. The CHAIRPERSON said that the delegation would answer questions on employment at a later stage.

Articles 6 and 7

50. Mr. CEVILLE said it was clear from the report that the Constitution did not establish a right to work. However, the written answers stated that the Constitution "confirmed the freedom of trade and industry". In practice, what measures, provisions and standards promoted the provision of employment in trade and industry? Also, what were the current regulations in Switzerland with regard to domestic work and work done by older persons joining or rejoining the labour market?

51. Mr. WIMER asked what specific measures were being taken to protect foreigners wishing to enter the labour market, in view of the ongoing revision of the order restricting the number of aliens, which now based decisions on individual criteria rather than the geographical criterion previously used. Were guidelines in place to prevent misuse of discretionary powers and the taking of arbitrary decisions?

52. Secondly, with regard to the "dumping" of foreigners on the labour market - a problem that existed worldwide - he asked for information on the provisions of the new legislation being introduced.

53. Mr. TEXIER asked what legislative measures and forms of training had been introduced in order to minimize the gender inequality in the workplace described in the report. Secondly, as minimum wage levels were determined through collective bargaining and not guaranteed by the Constitution, he would like to know whether the minimum wage varied greatly across regions and economic sectors. Thirdly, as collective bargaining seemed to function so well in Switzerland, he wondered why the Government had not signed the 1949 Convention on the Right to Organize and Collective Bargaining. Were there any internal legal obstacles?

54. Finally, the report indicated that Swiss legislation, unusually, treated health and safety at work as separate matters, a situation which had caused members of Parliament on several occasions to request the Federal Council to unify the two areas. Although the existing system provided for powerful sanctions to deal with neglect of safety in the workplace, he noted that

Switzerland had not ratified the ILO Prevention of Major Industrial Accidents Convention (No. 174). Why? Had any campaigns been undertaken with the aim of preventing industrial accidents and diseases?

55. Mr. GRISSA asked why unemployment was higher in French-speaking than in German-speaking cantons. According to the report, although the Constitution guaranteed equality before the law for men and women in the labour market, in practice segregation between men's and women's work was such that there existed a masculine structure of employment characterized by homogeneity and a feminine structure characterized by heterogeneity. What was meant in that context by the words "homogeneity" and "heterogeneity"?

56. Mr. SADI asked whether the Government had any intention of asking the population to vote on including the right to work in the Constitution. While in effect that right was underpinned by such indirect measures as article 31 of the Constitution requiring the Confederation to safeguard the general welfare and procure economic security for the citizens, it was surprising that the most recent attempt to secure public approval for formal inclusion of the right to work in the Constitution had been in 1947.

57. Mr. RIEDEL said that Switzerland's written replies to items 14 and 15 of the list of issues (E/C.12/Q/SWI/1), while providing much interesting information, failed to indicate the Swiss Government's views on those issues or what action it was undertaking, apart from commenting that the situation had improved - as indeed it had done throughout Europe generally. He suggested that Switzerland, although not a member of the European Court at Luxembourg, might find some useful pointers on ways to promote equal pay and equality in employment in the considerable body of case law that had been built up on the subject by the Court.

58. He had been asked by a Swiss non-governmental organization, Syndicats sans frontières, to inquire about the situation of the domestic staff of diplomats stationed in Switzerland or the service staff of diplomatic missions in the country. Such staff held Swiss residence permits directly tied to their jobs. They were frequently asked to work long hours for very little pay and risked dismissal with consequent expulsion from Switzerland should they presume to make any complaint to a Swiss court. Despite that, some 150 such cases had gone through the Swiss courts, with 78 resulting in a ruling in favour of the plaintiff. However, Switzerland had apparently made no effort to compel the diplomats or diplomatic missions concerned to compensate such employees, on the grounds that diplomatic immunity precluded such action.

59. Mr. AHMED said that the consolidated document prepared by a group of Swiss non-governmental organizations indicated an increasing erosion of job security. Practices such as requiring employees to remain on call for work if needed, to engage in part-time or temporary work against their wishes, or to work on loan to another company brought the protection afforded to such workers well below the standards normally enjoyed by permanent staff. What action was Switzerland taking with respect to the trend towards types of employment offering inadequate job or social security?

60. Ms. JIMÉNEZ BUTRAGUEÑO said that reform of the public service currently appeared to be a topic of general concern in Switzerland. What measures to

that end were envisaged by the federal, cantonal or communal authorities and what effect were they likely to have on security of employment in the public service.

61. Mr. ELMIGER (Switzerland) said that there was at present a strong current of opinion in favour of reform of the status of public officials at all constituent levels of the Confederation - federal, cantonal and communal. However, since the various cantons and communes had a considerable degree of autonomy in determining the status of the officials in their employ, conditions in the public service were not everywhere the same. The trend was towards greater privatization and greater flexibility in work practices. Nevertheless, although some cantons had even gone so far as to abolish the status of public official, that did not necessarily mean that all security of employment had been lost. In addition, a transitional period was being provided for the changeover to new systems. At federal level, a bill for reform of the status of federal officials had recently been submitted to Parliament for consideration but it was as yet too early to tell what the final content of that legislation would be.

62. In reply to Mr. Texier, the ILO Right to Organize and Collective Bargaining Convention (No. 98) was currently before the Federal Parliament for ratification. Preliminary procedures had been completed and ratification would be debated in the Council of States in early December, following which it would pass to the second chamber, the National Council. The Convention had first been considered for ratification during the 1950s but, owing to a lack of clarity regarding some aspects of its relation to the ILO Freedom of Association and Protection of the Right to Organize Convention (No. 87), the procedure had not been completed and ratification had since remained in abeyance. In response to the ILO's recent campaign to promote its fundamental standards, consideration had again been given to ratification of Convention No. 98. The Federal Council considered that feasible, since the provisions of the article requiring protection from discrimination in recruitment for employment on grounds of union membership, which had been a major obstacle in the past, were now adequately covered by the Federal Data Protection Act.

63. The situation was more complicated in the case of the ILO Prevention of Major Industrial Accidents Convention (No. 174). Its provisions related to a field that in Switzerland was covered by a number of different bodies of legislation. The major separation was between legislation on occupational hygiene and that on health and safety at work. In addition, parts of the Convention had implications for federal law on the environment, on toxic substances and even on explosives. The problem was that the definitions of employer and employee were not identical in all the legislative texts involved. The enormous task of realignment had led to deferral of ratification and return of the file to the federal administration for further review, a procedure which was still under way.

64. Ms. JIMÉNEZ BUTRAGUEÑO said she understood that although great concern was shown for the elderly in Switzerland, some difficulties were still being experienced over housing and access to buildings and transport. Buses, for example, were not equipped for easy access by the elderly or disabled.

Article 8: Trade union rights

65. Mr. TEXIER said that although trade union rights generally appeared to be well protected in Switzerland, he was concerned about the denial of the right to strike in the public service. There was indeed much current debate in Switzerland on the subject. He therefore asked what the position was with regard to reform of the 1927 Federal Act concerning the status of public officials. The ILO Committee of Experts had submitted to Switzerland that the provision denying the right to strike was obsolete in its blanket application to all officials, while conceding that in the case of certain public servants, such as senior officials and members of the armed forces, the police and the prison service, that right had necessarily to be curtailed in the public interest. The Swiss Government appeared to fear that recognizing the right to strike would lead to a wave of strike action. That seemed unlikely in view of the healthy situation in the private sector, where, despite wide freedom of association, extensive union membership and broad acceptance of the right to strike, very few strikes actually took place, negotiation being the preferred procedure for prevention or resolution of disputes and strike action being considered only as a last resort.

66. Mr. GRISSA, noting the reference that had been made to privatizing the public service, asked whether that would automatically entail recognition of the right of the officials concerned to strike. Was the right to strike denied only to federal officials or did it also affect the public service at cantonal and communal level?

67. Mr. ELMIGER (Switzerland) said that the general situation in relation to the right to strike in the public service was currently as follows. Practices differed between communes, between cantons, and between cantons and the federal administration. Some cantons had even abolished the specific status of public official and so lifted the restriction on the right to strike except in certain areas such as the army or police. Reform of the status of federal public officials was still awaited. Nevertheless, within the framework of reform of the Federal Constitution, a parliamentary consensus was emerging in favour of making strikes and lockouts lawful in the federal public service, which represented a substantial step towards meeting the requirements of the ILO supervisory bodies in relation to the ILO Right to Organize and Collective Bargaining Convention (No. 87), which, in addition to the Covenant, had to be considered in any attempt to give more flexibility to the status of federal public officials. The Federal Council had already submitted a draft text on the subject which had received several hearings.

Article 9: Right to social security

68. Ms. JIMÉNEZ BUTRAGUEÑO, referring to the tenth revision of the old age and survivors' insurance (AVS) which provided for separate pensions for members of a married couple, asked whether, in the case of a married couple in which both spouses had been in gainful employment, the two pensions were added together or whether there was a ceiling which the two pensions taken together were not allowed to exceed despite individual entitlements to a greater amount. Furthermore, if one formerly working spouse died, was the remaining spouse entitled to a survivors' pension in addition to his or her own pension, and if so was that entitlement irrespective of sex?

69. She wondered why the retirement age continued to be different for men and women. A lower retirement age for women seemed illogical since women in general lived longer than men. Was it possible for people who wished to do so to continue working beyond the statutory retirement age, particularly in the public sector?

70. Mr. GRISSA, noting that life expectancy in Switzerland was currently over 80 for women and slightly lower for men, and that some 15 per cent of the population were at present over 65, said it might be logical to consider raising the retirement age instead of following the current trend to lower it in order to create employment opportunities for younger people. He asked what the arrangements were for financing old age pensions. If the money was to come from the working population, it would represent an unduly heavy tax burden on that sector. How was Switzerland planning to tackle the conflict of interest between the respective needs of retired and working people?

71. Ms. JIMÉNEZ BUTRAGUEÑO said that life beyond retirement was not just about money but also about quality of life. Many people found their lives very empty once they had stopped working and found it hard to fill their days. The ageing of the population made it very necessary to consider such problems.

The meeting rose at 12.55 p.m.